



General Assembly

January Session, 2019

Amendment

LCO No. 9406



Offered by:

SEN. LOONEY, 11th Dist.
SEN. DUFF, 25th Dist.
SEN. MCCRORY, 2nd Dist.

SEN. MOORE, 22nd Dist.
SEN. WINFIELD, 10th Dist.
SEN. CASSANO, 4th Dist.

To: Subst. Senate Bill No. 1070

File No. 732

Cal. No. 353

"AN ACT CONCERNING ABANDONED AND BLIGHTED PROPERTY STEWARDSHIP."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective January 1, 2020*) (a) As used in this
4 section:

5 (1) "Abandoned property" means any building that meets the
6 conditions described in subdivision (2) of subsection (c) of this section;

7 (2) "Actively marketed" means (A) a sign has been placed on a
8 property advertising sale of such property, (B) the owner of such
9 property has (i) hired a real estate broker or salesperson, licensed
10 pursuant to section 20-312 of the general statutes, to include the
11 property in the multiple listing service or to otherwise market the
12 property, (ii) placed advertisements weekly, or more frequently, in

13 print or electronic media, or (iii) distributed printed advertisements,
14 and (C) such sign contains accurate contact information for such owner
15 or real estate broker or salesperson;

16 (3) "Building" means a residential, commercial or industrial
17 structure and the land appurtenant to such structure, including any
18 vacant lot on which such structure was demolished;

19 (4) "Competent entity" means a person or entity, including a
20 governmental unit, with experience in the rehabilitation of buildings
21 and the ability to provide or obtain the necessary financing for such
22 rehabilitation;

23 (5) "Costs of rehabilitation" means each expense for construction,
24 stabilization, restoration, maintenance, operation or demolition of a
25 building, or any action reasonably associated with the rehabilitation of
26 a building, including, but not limited to, environmental remediation
27 and architectural, engineering, legal, financing, permit and receiver's
28 fees;

29 (6) "Development organization" means a nonprofit corporation
30 established, in part, to carry out the purposes of blight remediation,
31 community development, economic development, historic
32 preservation or promotion or enhancement of affordable housing
33 opportunities;

34 (7) "Historic property" means a property listed on the National
35 Register of Historic Places, a contributing property in a national
36 register historic district or a property located in an historic district
37 established pursuant to section 7-147c of the general statutes;

38 (8) "Immediate family" means a parent, spouse, child or sibling;

39 (9) "Lienholder of record" means a lienholder owning a valid
40 interest in the abandoned property, which interest is recorded in the
41 land records of the municipality in which such abandoned property is
42 located;

43 (10) "Municipal code" means any building, housing, blight, property
44 maintenance, fire, health or other public safety ordinance enacted by a
45 municipality;

46 (11) "Owner" means the holder or holders of title to, or of legal or
47 equitable interest in, a building, and shall include, provided any such
48 interest is a matter of public record, any heir, assignee, trustee,
49 beneficiary or lessee of such building;

50 (12) "Party in interest" means any person or entity with a direct and
51 immediate interest in a building, including (A) an owner of such
52 building, (B) a lienholder or other secured creditor of such an owner,
53 (C) a resident of or business owner in the municipality in which such
54 building is located, provided such resident's residence or such owner's
55 business is located less than two thousand feet from such building, (D)
56 a development organization (i) in the municipality in which such
57 building is located, and (ii) that has participated in a project in line
58 with such organization's purpose within a five-mile radius of such
59 building, or (E) the municipality or school district in which such
60 building is located;

61 (13) "Receiver" means any person or entity that takes possession of a
62 building pursuant to the provisions of this section for the purpose of
63 rehabilitating such building or otherwise disposing of such building;
64 and

65 (14) "Substantial rehabilitation" means (A) the costs of any repair,
66 replacement or improvement to a building exceed fifteen per cent of
67 the value of such building after the completion of all such repairs,
68 replacements or improvements, or (B) the replacement of two or more
69 of the following: (i) Roof structures, (ii) ceilings, (iii) wall or floor
70 structures, (iv) foundations, (v) plumbing systems, (vi) heating and air
71 conditioning systems, or (vii) electrical systems.

72 (b) (1) A party in interest may file a petition for the appointment of a
73 receiver to take possession and undertake rehabilitation of a building,
74 which petition shall be filed in the superior court for the judicial

75 district in which such building is located. The proceeding on the
76 petition shall constitute an action in rem.

77 (2) (A) The petition shall include a sworn statement of the petitioner
78 that, to the best of his or her knowledge, the building meets the
79 conditions described in subdivision (2) of subsection (c) of this section
80 on the date the petition is filed. The petition shall also include, to the
81 extent available to the petitioner after his or her reasonable efforts to
82 obtain the following information, (i) a copy of any citation or order
83 charging the owner of the building with being in violation of
84 municipal code requirements or determining the building to be a
85 public nuisance, blighted or unfit for human occupancy or use, (ii) a
86 recommendation for appointment as receiver for the building, (iii) a
87 preliminary plan detailing (I) initial cost estimates of rehabilitation of
88 the building for purposes of compliance with the applicable municipal
89 code and plan for the area adopted by the municipality in which the
90 building is located, and (II) anticipated funding sources, and (iv) a
91 schedule of each mortgage, lien or other encumbrance on the building.

92 (B) The petition may include any other property adjacent to the
93 building, provided (i) such other property is owned by the same owner
94 as the building, and (ii) the building and each such property are used
95 for a single or interrelated purpose.

96 (3) A true copy of the petition shall be served on the owner of the
97 building and each lienholder of record, including any municipality,
98 unless such municipality is the petitioner, in the manner provided by
99 section 52-57 of the general statutes. In addition, the petitioner shall
100 record a notice of lis pendens with the clerk of such municipality, in
101 the manner provided by section 52-325 of the general statutes.

102 (c) (1) The court shall hold a hearing on the petition and issue a
103 decision after completion of the hearing.

104 (2) The court may appoint a receiver for the building if the court
105 finds that, on the date the petition was filed, each of the following
106 conditions applied:

107 (A) The building has not been legally occupied for at least the
108 twelve months immediately preceding the date of such filing;

109 (B) The owner fails to present compelling evidence, as determined
110 by the court, that the owner has (i) actively marketed the building
111 during the sixty days immediately preceding the date of such filing,
112 and (ii) made a good faith effort to sell the building at a price reflective
113 of circumstances and market conditions;

114 (C) The building is not subject to a pending foreclosure action by an
115 individual or nongovernmental entity;

116 (D) The owner fails to present compelling evidence, as determined
117 by the court, that the owner acquired the building during the twelve
118 months immediately preceding the date of such filing. For the
119 purposes of this subparagraph, "compelling evidence" does not include
120 evidence that (i) the prior owner is a member of the immediate family
121 of such owner, unless the change in ownership resulted from the death
122 of the prior owner, and (ii) such owner or the prior owner is a
123 corporation, partnership or other entity of which an interest in excess
124 of five per cent is held by a principal, or a member of the immediate
125 family of such principal, of such owner or the prior owner; and

126 (E) The court finds at least three of the following:

127 (i) The building is a public nuisance, blighted or unfit for human
128 occupancy or use pursuant to the applicable municipal code;

129 (ii) The building requires substantial rehabilitation, and no effort to
130 rehabilitate the building has been made during the twelve months
131 immediately preceding the date of such filing;

132 (iii) The condition and any vacancy of the building materially
133 increase the risk of fire to the building and any adjacent property;

134 (iv) The building is susceptible to unauthorized entry and resulting
135 potential health and safety hazards, and (I) the owner has failed to take
136 reasonable and necessary measures to secure the building, or (II) the

137 municipality has secured the building as a result of the failure by the
138 owner;

139 (v) The building is an attractive nuisance to children as a result of
140 the presence of abandoned wells, shafts, basements, excavations and
141 other unsafe structures;

142 (vi) The building is an attractive nuisance for illicit purposes,
143 including, but not limited to, prostitution, drug use and vagrancy;

144 (vii) The presence of vermin or the accumulation of debris, uncut
145 vegetation or physical deterioration of the building creates potential
146 health and safety hazards, and the owner has failed to take reasonable
147 and necessary measures to remove such hazards; or

148 (viii) The appearance or other condition of the building negatively
149 impacts the economic well-being of residents or businesses in close
150 proximity to the building, which impact may include decrease in
151 property values or loss of business, and the owner has failed to take
152 reasonable and necessary measures to remedy the appearance or other
153 condition.

154 (3) (A) Except as provided in subdivision (4) of this subsection, if the
155 court determines that the building is an abandoned property and
156 appoints a receiver pursuant to subdivision (2) of this subsection, the
157 court shall certify the schedule of each mortgage, lien or other
158 encumbrance on such abandoned property and may grant other relief
159 as the court deems just and appropriate. Such certification shall be
160 binding with respect to each mortgage, lien or other encumbrance,
161 including any municipal lien, arising or attaching to the abandoned
162 property prior to the date of such petition.

163 (B) The court shall give the most senior nongovernmental lienholder
164 of record on the abandoned property first consideration for
165 appointment as receiver.

166 (C) If such lienholder is found not competent or declines the

167 appointment, the court may appoint a development organization or
168 other competent entity as receiver, if such organization or entity agrees
169 to serve as receiver. In appointing a receiver pursuant to this
170 subparagraph, the court shall (i) consider any recommendation
171 contained in the petition or otherwise presented by the petitioner or
172 other party in interest, and (ii) give preference to a development
173 organization or governmental unit over an individual.

174 (4) If the court determines that the building is an abandoned
175 property and the owner represents that the conditions described in
176 subdivision (2) of this subsection will be remedied in a reasonable
177 period, the court may permit the owner to remedy the conditions by
178 issuing an order that if the conditions are not remedied by the date set
179 forth in the order, or if other specified remedial efforts have not
180 occurred by the date or dates set forth in the order, the relief requested
181 in the petition shall be granted.

182 (5) Upon a finding that the building is an abandoned property in
183 accordance with subdivision (3) or (4) of this subsection, or that the
184 owner is electing to sell the building, the owner shall reimburse the
185 petitioner for all costs incurred in the preparation and filing of the
186 petition and the receiver shall be entitled to a reasonable receiver's fee
187 as determined by the court.

188 (6) Upon appointment of the receiver by the court, the receiver (A)
189 shall promptly take possession of the abandoned property and exercise
190 the powers described in subsection (d) of this section, and (B) may file
191 a lien against the abandoned property in an amount based on the costs
192 incurred during the receivership, including, but not limited to, costs of
193 rehabilitation, attorneys' fees and court costs, which amount may be
194 adjusted as necessary.

195 (7) The court may remove the receiver at any time upon request of
196 such receiver or showing by the petitioner or any party to such action
197 that such receiver is not carrying out the duties described in subsection
198 (d) of this section.

199 (d) (1) A receiver appointed pursuant to this section shall have all
200 powers necessary and appropriate, as approved by the court, for the
201 efficient operation, management and improvement of the abandoned
202 property in order to bring the same into compliance with municipal
203 code requirements and fulfill all duties described in this subsection.
204 Subject to approval of the court, the powers and duties shall include,
205 but not be limited to:

206 (A) Taking possession and control of the abandoned property and
207 any personal property of the owner used with respect to the
208 abandoned property, including any bank or operating account for the
209 building;

210 (B) Collecting outstanding accounts receivable;

211 (C) Pursuing all claims or causes of action of the owner with respect
212 to the property described in subparagraph (A) of this subdivision;

213 (D) Contracting for the repair and maintenance of the abandoned
214 property, provided the receiver shall make a reasonable effort to solicit
215 three bids for any contract valued at more than twenty-five thousand
216 dollars unless the contractor or developer provides or obtains
217 financing for the receivership, and each of which contract shall be
218 appropriately documented and included in the reports and accounting
219 required to be submitted or filed by the receiver pursuant to this
220 section;

221 (E) Borrowing money and incurring credit in accordance with
222 subsection (f) of this section;

223 (F) Contracting and paying for the maintenance and restoration of
224 utilities to the abandoned property;

225 (G) Purchasing materials, goods and supplies to repair and operate
226 the abandoned property;

227 (H) Entering into a rental contract or lease for a period of time not to
228 exceed twelve months, provided the court shall approve any such

229 contract or lease;

230 (I) Affirming, renewing or entering into contracts providing for
231 insurance coverage on the abandoned property;

232 (J) Engaging and paying legal, accounting, appraisal and other
233 professionals to assist such receiver in such receivership;

234 (K) If such building was designated an historic property prior to
235 determination by the court as an abandoned property, consulting with
236 the municipality's historical commission or board of historical and
237 architectural review, or a local historic preservation organization, for
238 any recommendation on preserving the historic character of such
239 abandoned property;

240 (L) Applying for and receiving public grants and loans;

241 (M) Selling the building in accordance with subsection (g) of this
242 section; and

243 (N) Exercising any right a property owner would have to improve,
244 maintain and otherwise manage such property, including to the extent
245 necessary to carry out the purposes of this section.

246 (2) While in possession and control of the abandoned property, such
247 receiver shall:

248 (A) Maintain, safeguard and insure such property;

249 (B) Apply all revenue generated from such property consistent with
250 the provisions of this section;

251 (C) Develop a receiver's plan for abatement of the conditions
252 described in subdivision (2) of subsection (c) of this section or, if no
253 such plan can feasibly be developed, a receiver's plan for alternatives
254 such as the closing, sealing or demolition of all or part of the
255 abandoned property, provided (i) if the building was designated an
256 historic property prior to determination by the court as an abandoned

257 property, the receiver's plan for abatement shall provide for the
258 rehabilitation of architectural features that define the historic character
259 of such property, and (ii) if demolition of an abandoned property
260 located in an historic district is necessary, the receiver's plan for
261 alternatives shall provide for the design of any replacement
262 construction on the site of the demolition to comply with law;

263 (D) Implement the receiver's plan developed pursuant to
264 subparagraph (C) of this subdivision, provided the court shall approve
265 such plan; and

266 (E) Annually, or more frequently if the court deems appropriate,
267 submit a status report to the court and each party to the action, which
268 report shall include (i) a copy of any contract entered into by the
269 receiver regarding the rehabilitation of the abandoned property, (ii) an
270 account of the disposition of all revenue generated from such property,
271 (iii) an account of all expenses, repairs and improvements, (iv) the
272 status of developing and implementing the receiver's plan described in
273 subparagraph (C) of this subdivision, and (v) a description of any
274 proposed action to be taken in the six months following the date of
275 submission of the status report to rehabilitate such property.

276 (3) (A) At the time such court appoints a receiver pursuant to
277 subdivision (2) of subsection (c) of this section, the receiver may
278 present for the court's approval a receiver's plan described in
279 subparagraph (C) of subdivision (2) of this subsection. If no such plan
280 is presented, the hearing date on such plan shall be set not later than
281 one hundred twenty days after the appointment and the receiver shall
282 submit such plan to the court and each party to the action not later
283 than thirty days prior to the hearing on such plan.

284 (B) Such plan shall (i) include a cost estimate, a financing plan and
285 either (I) a description of the rehabilitation to be done for the
286 abandoned property, or (II) if rehabilitation is not feasible, a proposal
287 for the closing, sealing or demolition of such property, and (ii) conform
288 with the applicable municipal code, plan for the area adopted by the

289 municipality in which such building is located and historic
290 preservation requirements.

291 (C) At the time of the hearing on the receiver's plan, each party to
292 the action may comment on such plan and the court shall consider all
293 comments when assessing the feasibility of such plan and proposed
294 financing. In making its determination for approving such plan, the
295 costs of such receivership or sale of the abandoned property, the court
296 shall give reasonable regard to the receiver's assessment of the scope
297 and necessity of work to be done for rehabilitation or demolition, as
298 applicable, of the property.

299 (D) The court shall issue a decision approving such receiver's plan
300 or requiring that such plan be amended, in which case another hearing
301 date shall be set.

302 (4) Upon implementation of such receiver's plan approved by the
303 court, the receiver shall file with the court a full accounting of all
304 income and expenditures during the time from approval of the plan to
305 such implementation.

306 (e) (1) The receiver appointed pursuant to subdivision (2) of
307 subsection (c) of this section shall be deemed to have powers and
308 authority equivalent to ownership and legal control of the abandoned
309 property for the purposes of filing plans with any public agency or
310 board, seeking or obtaining construction permits or other approvals
311 and submitting applications for financing or other assistance to public
312 or private entities.

313 (2) Notwithstanding the provisions of subdivision (1) of this
314 subsection, nothing in this section shall be construed to relieve the
315 owner of a building that has been determined to be an abandoned
316 property pursuant to subdivision (2) of subsection (c) of this section of
317 any civil or criminal liability or of any obligation to pay any tax,
318 municipal lien or charge, mortgage, private lien or other fee or charge
319 incurred before or after the appointment of the receiver, and no such
320 liability shall transfer to the receiver.

321 (3) Notwithstanding any provision of the general statutes, the
322 receiver shall not be liable for any environmental damage to a building
323 that has been determined to be an abandoned property pursuant to
324 subdivision (2) of subsection (c) of this section, which environmental
325 damage existed prior to such determination and the appointment of
326 such receiver. The owner of the building shall be held liable for the
327 environmental damage.

328 (f) (1) The receiver may borrow money or incur indebtedness in
329 order to cover the costs of rehabilitation or otherwise fulfill any duty
330 described in subsection (d) of this section.

331 (2) For the purpose of facilitating the borrowing of moneys for the
332 costs of rehabilitation, the court may grant priority status to a lien
333 given to secure payment on a debt incurred for the purposes
334 authorized under this section, provided (A) the receiver sought to
335 obtain the necessary financing from the most senior, nongovernmental
336 lienholder and such lienholder declined to provide financing on
337 reasonable terms for any reasonable improvement or other costs of
338 rehabilitation, and (B) lien priority is necessary to induce another
339 lender to provide financing on reasonable terms.

340 (3) If the most senior, nongovernmental lienholder agrees to provide
341 financing for the costs of rehabilitation, any moneys lent to cover such
342 costs shall be deemed added to such lienholder's preexisting first lien.

343 (4) The court may approve financing for the costs of rehabilitation,
344 the terms of which may include deferred repayment and use
345 restrictions. Such terms may remain with the rehabilitated property
346 after the termination of the receivership and be assumed by (A) the
347 owner of the building that was determined to be an abandoned
348 property pursuant to subdivision (2) of subsection (c) of this section, if
349 such owner regains possession of the rehabilitated property, or (B) a
350 purchaser of the rehabilitated property pursuant to subsection (g) of
351 this section.

352 (g) (1) If an abandoned property is sold by the owner or foreclosed

353 upon by any lienholder, or if any interest in such property is
354 transferred, the sale, foreclosure or transfer shall be subject to the
355 receivership.

356 (2) Upon application of the receiver, the court may order the sale of
357 the abandoned property if the court finds that (A) notice and an
358 opportunity to provide comment to the court was given to each record
359 owner of such property and each lienholder of record, (B) the receiver
360 has been in control of such property for more than three months and
361 the owner has not successfully petitioned to terminate the receivership
362 pursuant to subsection (h) of this section, and (C) the terms and
363 conditions of the sale are acceptable to the court and the purchaser of
364 such property is reasonably likely to maintain such property.

365 (3) The court may authorize the receiver to sell the abandoned
366 property free and clear of any lien, claim and encumbrance, provided
367 the proceeds of the sale are distributed at settlement pursuant to
368 subdivision (4) of this subsection and such distribution is approved by
369 the court. If the proceeds are insufficient to pay each lien, claim and
370 encumbrance, the proceeds shall be distributed according to the
371 priorities set forth in said subdivision and each unpaid lien, claim and
372 encumbrance that has not been assumed pursuant to subdivision (4) of
373 subsection (f) of this section shall be extinguished.

374 (4) The proceeds of any such sale approved by the court shall be
375 distributed as follows, in order of priority:

376 (A) Court costs;

377 (B) Except as provided in subparagraph (G) of this subdivision, liens
378 of the state, liens for unpaid property taxes and properly recorded
379 municipal liens, except as to any such lien that has been sold or
380 transferred;

381 (C) Costs and expenses of sale;

382 (D) Principal and interest on any borrowing or incurrence of

383 indebtedness that was granted priority over existing liens and security
384 interests pursuant to subdivision (2) of subsection (f) of this section;

385 (E) Costs incurred by such petitioner in preparing and filing the
386 petition in accordance with the requirements of subsection (b) of this
387 section;

388 (F) Costs of rehabilitation and any fee or expense incurred by the
389 receiver in connection with the sale or the safeguarding of the
390 abandoned property for which the lien authorized under
391 subparagraph (B) of subdivision (6) of subsection (c) of this section was
392 filed;

393 (G) Liens of the state, liens for unpaid property taxes and properly
394 recorded municipal liens that have been sold or transferred;

395 (H) Valid liens and security interests in accordance with the priority
396 of the liens and interests;

397 (I) Unpaid obligations of the receiver; and

398 (J) The owner of the building that was determined to be an
399 abandoned property pursuant to subdivision (2) of subsection (c) of
400 this section.

401 (5) If at the time of the distribution of the proceeds of the sale the
402 owner cannot be located, the proceeds of the sale that belong to the
403 owner shall be (A) presumed unclaimed and forfeited, (B) subject to
404 the custody and control of the municipality in which the sold property
405 is located, and (C) used for all associated costs to the municipality for
406 the security and remediation of blight and enforcement of any
407 regulation enacted pursuant to subparagraph (H)(xv) of subdivision
408 (7) of subsection (c) of section 7-148 of the general statutes.

409 (6) At the conclusion of any such sale and distribution of proceeds,
410 the receiver shall draft a deed stating that recognizable and marketable
411 title to such property is vested in the purchaser of such property and
412 that any prior ownership interest in such abandoned property has

413 been extinguished. Upon approval of such deed by the court and filing
414 in the land records of the municipality in which such property is
415 located, transfer of ownership of such property shall be deemed fully
416 effectuated.

417 (h) Upon request of the receiver or any party in interest, the court
418 may order the termination of a receivership of an abandoned property
419 if the court finds:

420 (1) The purposes of the receivership have been fulfilled, such as the
421 remediation or abatement of the conditions described in subdivision
422 (2) of subsection (c) of this section and the payment of or provision for
423 each obligation, expense and improvement of the receivership,
424 including any fee or expense incurred by the receiver;

425 (2) The owner, a mortgagee or a lienholder has requested the
426 receivership be terminated and has provided adequate assurance to
427 the court that the purposes of the receivership will be fulfilled, such as
428 the remediation or abatement of the conditions described in
429 subdivision (2) of subsection (c) of this section and the payment of or
430 provision for each obligation, expense and improvement of such
431 receivership, including any fee or expense incurred by such receiver;

432 (3) The abandoned property has been sold by the receiver and the
433 proceeds of the sale have been distributed in accordance with
434 subdivision (4) of subsection (g) of this section; or

435 (4) The receiver has been unable, after diligent effort, to (A) develop
436 a receiver's plan pursuant to subparagraph (C) of subdivision (2) of
437 subsection (c) of this section for approval by the court, (B) implement
438 any court-approved plan, or (C) fulfill the purposes of the receivership
439 for any reason.

440 (i) The provisions of this section shall not apply (1) to any
441 commercial or residential building, structure or land owned by or held
442 in trust for the United States government and regulated under the
443 United States Housing Act of 1937, as amended from time to time, and

444 regulations promulgated under such act, and (2) if the owner of a
445 building that would be determined by a court to be an abandoned
446 property pursuant to this section has vacated such building to perform
447 military service in time of war or armed conflict or to assist relief
448 efforts during a declared federal or state emergency as a member of the
449 United States armed forces or any reserve component of such armed
450 forces."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2020</i>	New section
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